

REMARKS

Claims 1-2, 4-8 and 11-13 and 15, 16 and 25 remain in the application. Independent claims 1 and 11 have been amended to include the limitations of wherein the metal gate electrode comprises a single layer, wherein a polysilicon fill layer is disposed on the metal gate electrode, and wherein a laser beam is pulsed at about 20 nanosecond intervals or less. Support for this amendment can be found in FIG. 1a and paragraph 20 of the present application, for example. Claims 2, 4, 15 and 25 have been amended for clarity. No new subject matter has been added with these amendments.

A. 35 U.S.C. § 102(e)

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

En- Claims 1-2, 5, 7, 8, 11-13, 15-16, 25

Claims 1-2, 5, 7, 8, 11-13, 15-16 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the U.S. Patent issued to En, et al. (hereinafter “En”) (Office Action, page 2). En does not teach or suggest a polysilicon fill layer being disposed on the metal gate layer, as in amended claims 1 and 11. Since En does not contain all of the limitations of amended claims 1 and 11, from which claims 2, 5, 7, 8, and 12-13, 15, 16 and 25 depend, it is respectfully submitted that these claims are not anticipated by En. Thus, reconsideration and withdrawal of the Section 102(e) rejection of claims 1-2, 5, 7, 8, 11-13, 15-16, 25 is respectfully requested.

Chambers- Claims 1-2, 5, 7, 8, 11-13, 15-16, 25

Claims 1-2, 5, 7, 8, 11-13, 15-16 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the U.S. Patent issued to Chambers, et al. (hereinafter “Chambers”) (Office Action, page 3). Chambers does not teach or suggest the limitations of amended claims 1 and 11. Since Chambers does not contain all of the limitations of amended claims 1 and 11, from which claims 2, 5, 7, 8, and 12-13, 15, 16 and 25 depend, it is respectfully submitted that these claims are not anticipated by Chambers. Thus, reconsideration and withdrawal of the Section 102(e) rejection of claims 1-2, 5, 7, 8, 11-13, 15-16 and 25 is respectfully requested.

Yamaguchi- Claims 1-2, 5, 7, 8, 11-13, 15-16, 25

Claims 1-2, 5, 7, 8, 11-13, 15-16 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the U.S. Patent issued to Yamaguchi, et al. (hereinafter “Yamaguchi”) (Office Action, page 4). Yamaguchi does not teach or suggest the limitations of amended claims 1 and 11, from which claims 2, 5, 7, 8, and 12-13, 15, 16 and 25 depend. It is respectfully submitted that these claims are not anticipated by Yamaguchi. Thus, reconsideration and withdrawal of the Section 102(e) rejection of claims 1-2, 5, 7, 8, 11-13, 15-16 and 25 is respectfully requested.

B. 35 U.S.C. § 103(a)

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over En in view of Goto. The Office contends it would have been obvious (to which the Applicants do not concede) to combine Goto's teachings with En's invention.

However, independent claim 1 (from which claim 6 depends) has been amended to include the limitations described above. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." In *re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Because neither En nor Goto teach nor even suggest the limitations of amended claim 1, claim 6 is not rendered obvious by either En or Goto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 6 is respectfully requested.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over En in view of Tsukamoto. The Office contends it would have been obvious (to which the Applicants do not concede) to combine En's teachings with Tsukamoto's invention.

However, independent claim 1, from which claim 4 depends, has been amended as described above. Because neither En nor Tsukamoto teach or even suggest the limitations of amended claim 1, from which claim 4 depends, claim 4 is not rendered obvious by En in view of Tsukamoto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 4 is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chambers in view of Goto. The Office contends it would have been obvious (to which the Applicants do not concede) to combine Chambers teachings with Goto's invention.

However, independent claim 1, from which claim 6 depends, has been amended as described above. Because neither Chambers or Goto teach or even suggest the limitations of amended claim 1, claim 6 is not rendered obvious by Chambers in view of Goto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 6 is respectfully requested.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chambers in view of Tsukamoto. The Office contends it would have been obvious (to which the Applicants do not concede) to combine Tsukamoto's teachings with Chambers' invention.

However, independent claim 1, from which claim 4 depends, has been amended as described above. Because neither Chambers or Tsukamoto teach or even suggest the limitations of amended claim 1, claim 4 is not rendered obvious by Chambers in view of Tsukamoto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 4 is respectfully requested.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamaguchi (6,040,224) in view of Goto. The Office contends it would have been obvious (to which the Applicants do not concede) combine Yamaguchi's teachings with Gotos' invention.

However, independent claim 1, from which claim 6 depends, has been amended as described above. Because neither Yamaguchi or Goto teach or even suggest the limitations of amended claim 1, claim 6 is not rendered obvious by Yamaguchi in view of Goto. Thus, reconsideration and withdrawal of the Section 103(a) rejection of claim 6 is respectfully requested.

In view of the foregoing remarks, the Applicants request allowance of the application. Please forward further communications to the address of record. If the Examiner needs to contact the below-signed Attorney to further the prosecution of the application, the contact number is (480) 715-5488.

Respectfully submitted,

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